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BY ECF

Honorable Joseph F. Bianco
United States District Court Judge
Eastern District of New York
100 Federal Plaza
Central Islip, NY 11722

Re: United States v. Michael Romano, et al
CR 09 168 (S-2)

Dear Judge Bianco:

This letter is written in response to the government's opposition to the unsealing of the guilty plea proceedings of any coin salesmen employed by Wall Street Rare Coins, Inc., Atlantic Coin Galleries, Inc., and Northeast Gold and Silver, Inc. ("the Coin Companies"). In its opposition, the government has failed to establish that there is a substantial probability of prejudice to a compelling interest of the government. Further, the government cannot demonstrate that there are no reasonable alternatives to closure. Accordingly, it is respectfully submitted that the motion to unseal the proceedings be granted.

In support of their opposition to the unsealing of the plea proceedings, the government states that in June 2009, Jarrett Stretch informed the Government that Michael Romano and William Kearney "were pressuring" Stretch not to cooperate with the Government. No additional detail is provided as to the date of this particular conversation, where it occurred, who else was present, or exactly what was said. Although the government contends that this amounted to intimidation, the government did not alert the court or defense counsel of the purported intimidation, in order to put a stop to it, at any of the court appearances that have occurred during the twenty-one months subsequent to the proffer.

This general statement about "pressure" does not enable the Court to make specific findings on the record of a substantial probability of prejudice to a compelling interest of the government which closure would prevent. *See United States v. Doe*, 63 F.3d 121, 128 (2d Cir. 1995).

Further, it has been apparent since September 2009 that Jason Mosca entered a guilty plea. Mosca was indicted along with Romano and Kearney in March 2009, and beginning in September 2009 Mosca was no longer present at court appearances in this matter. Similarly, as of February 8, 2011, it became apparent that Jarrett Stretch entered a guilty plea. The fact that both proceedings were conducted under seal leads to the conclusion that both Mosca and Stretch are cooperating. Given the circumstances revealing the guilty pleas and the cooperation, it is not clear, and the government has not



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offered any explanation as to what is accomplished by the sealing of the plea proceedings. *Cf United States v. Zazi*, 2010 WL 2710605 (E.D.N.Y. 2010)(Chief Judge Dearie ordered that cooperation agreements and plea proceedings be unsealed of individuals cooperating against al-Qaeda).

The Court's power to seal proceedings is "one to be very seldom exercised, and even then only with the greatest caution, under urgent circumstances, and for very clear and apparent reasons." *United States v. Alcantara*, 395 F.3d 189, 192 (2d Cir. 2005)(citing *United States v. Cojacob*, 996 F.2d 1404, 1405 (2d Cir. 1993). On the record before the Court, the government has failed to demonstrate either urgent circumstances or very clear and apparent reasons.

It is respectfully requested that the motion to unseal the plea proceedings of any salesmen for the Coin Companies be granted.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'Patricia A. Pileggi', written in a cursive style.

Patricia A. Pileggi

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